

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Case No. 6:13-cr-00030-AA

Plaintiff,

**STIPULATION AND ORDER
VACATING AND SETTING ASIDE
SENTENCE PURSUANT TO 28
U.S.C. § 2255**

v.

DANIAL CHASE KENNEDY,

Defendant.

This matter is before the Court on defendant's motion to vacate or correct his sentence pursuant to 28 U.S.C. § 2255. Based on the Supreme Court's decisions in *Johnson v. United States*, 135 S. Ct. 2551 (2015) and *Welch v. United States*, 136 S. Ct. 1257 (2016), the parties agree to resolve this matter, without precedential value in any other case, as follows:

The parties agree that the sentence in this case should be vacated and set aside and that the matter be set for resentencing on November 22, 2016, at 2:30 p.m., for imposition

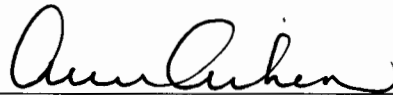
of a new sentence of 120 months. The parties further agree that all other aspects of the previously-imposed judgment and commitment order, including the term and conditions of supervised release, should remain the same.

Based on the above, and the Court concurring,

IT IS HEREBY ORDERED that the sentence imposed on December 18, 2013, is hereby vacated and set aside and that the matter be set for resentencing on November 22, 2016 at 2:30 p.m.

IT IS FURTHER ORDERED that Mr. Kennedy, who is serving his sentence at USP Tucson, be permitted to waive his physical presence at resentencing and appear by video conference and that the Bureau of Prisons arrange for the defendant's appearance by video with the Clerk's Office.

Dated this 3 day of October, 2016.



Honorable Ann Aiken
United States District Court Judge

Presented upon agreement of the parties by:

s/ Craig E. Weinerman

Craig E. Weinerman
Assistant Federal Public Defender
Counsel for Defendant

BILLY J. WILLIAMS

United States Attorney

s/ Frank R. Papagni Jr.

Frank R. Papagni
Assistant United States Attorney